

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6880 of 2015

and

M.P.No.1 of 2015 & W.M.P.No.5386 of 2016

1.R.M.Ponnalagu Pattar

2.G.Chinnaiah Pattar

... Petitioners

Vs.

1. The Hindu Religious Charitable Endowments Department,
rep. by its Commissioner,
Mahatma Gandhi Road,
Nungambakkam,
Chennai-600 034.

2. The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Sivagangai.

3. Muthuvairava Pattar

4. K.N.Chinnaiah Pattar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to its order dated 18.11.2014 passed in A.P.No.23 of 2006 on appeal against the order of the 2nd respondent passed in Pro.Rc.No.7570 of 2003 B1 dated 02.01.2006 and to quash the same and further to direct the respondents 1 & 2 to reinstate the petitioners.

For Petitioners : Mr.S.Sithirai Anandam

For respondents : Mr.K.V.Dhanapalan,
Additional Government Pleader
(For R1 & R2)

Mr.V.Raghavachari (For R3)

No appearance for R4

ORDER

This writ petition has been filed by the petitioner challenging the order dated 18.11.2014 in A.P.No.23 of 2006 passed by the 1st respondent, confirming the order dated 02.01.2006 in Pro.Rc.No.7570/2003 B1 passed by the 2nd respondent, removing the petitioners herein from the hereditary trusteeship of the temple viz., Arulmighu Jayamkonda Nayagi @ Poongundra Nayagi Amman Temple, Mahibalanpatti, Tirupattur Taluk, Sivagangai District.

2.The brief facts of the case which are necessary to dispose of this writ petition are as follows:-

2-1.The subject temple viz., Arulmighu Jayamkonda Nayagi @ Poongundra Nayagi Amman Temple, Mahibalanpatti, Tirupattur Taluk, Sivagangai District, is managed by the hereditary trustees. The petitioners herein and the respondents 3 & 4 are the hereditary trustees of the said temple. The 3rd respondent was the Chairman of the Trust. In a special meeting convened by the Assistant Commissioner, HR & CE Dept, paramakudi, on 28.04.2004, the 1st petitioner herein was unanimously elected as the Chairman, Board of Trustees of the said Temple and his term of office was for three years from 28.04.2004. But, the 3rd respondent herein refused to hand over the charges of the temple to the petitioners herein.

2-2.While so, as some complaints were received against the petitioners herein and the 4th respondent herein, the 2nd respondent herein issued a notice in Rc.No.7570/2003 E1 calling upon the petitioners to appear for enquiry on 27.06.2005. The petitioners appeared before the 2nd respondent and gave explanation. The explanation of the petitioners was not accepted by the 2nd respondent and the five charges were framed against them. Subsequently, by order dated 22.07.2005 in C.No.7570/2003(1)D1, the 2nd respondent placed the petitioners under suspension from the trusteeship. Aggrieved over the suspension, the petitioners filed appeal in A.S.No.26 of 2005 before the 1st respondent. While the appeal was pending, the 2nd respondent proceeded with the enquiry and passed the order dated 02.01.2006 in Pro.Rc.No.7570/2003 D1, whereby the petitioners were removed from hereditary trusteeship. Challenging the removal from hereditary trusteeship, the petitioners filed another appeal in A.P.No.23 of 2006 before the 1st respondent.

2-3.Previously, the said appeals were allowed by the 1st respondent. Challenging the same, the 3rd respondent herein had filed writ petition in W.P.No.8955 of 2009 and the same was dismissed by the learned Single Judge of this Court on

29.03.2012. Thereafter, the 3rd respondent herein filed a writ appeal in W.A.No.958 of 2012. In the said writ appeal, the Division Bench of this Court by order 21.08.2014 remanded the matter back to the 1st respondent for fresh consideration. Thereafter, after conducting enquiry, the 1st respondent has passed the impugned order dated 18.11.2014, confirming the order passed by the 2nd respondent, in removing the petitioners from trusteeship of the temple. Aggrieved over the impugned order, the petitioners have come forward with the present writ petition before this Court.

3. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader and the learned counsel appearing for the 3rd respondent and perused the materials available on record.

4. Though very many contentions have been raised on either side, as submitted by the learned Additional Government Pleader, as against the impugned order passed by the 1st respondent, the remedy for the petitioners lies before the Civil Court, under Section 53(6) of the HR & CE Act. Section 53 (6) of the Act reads as follows—

Section 53 :- Power to suspend, remove or dismiss trustees

(1) to (5).....

(6) A hereditary trustee aggrieved by an order passed by the Commissioner or the Government under sub-section (5) may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order.

In view of the above, the writ petition is not a proper remedy for the petitioners. The petitioners have to work out their remedy under Section 53(6) of the Act by filing Civil suit before the appropriate forum.

5. Hence, the writ petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

SSV

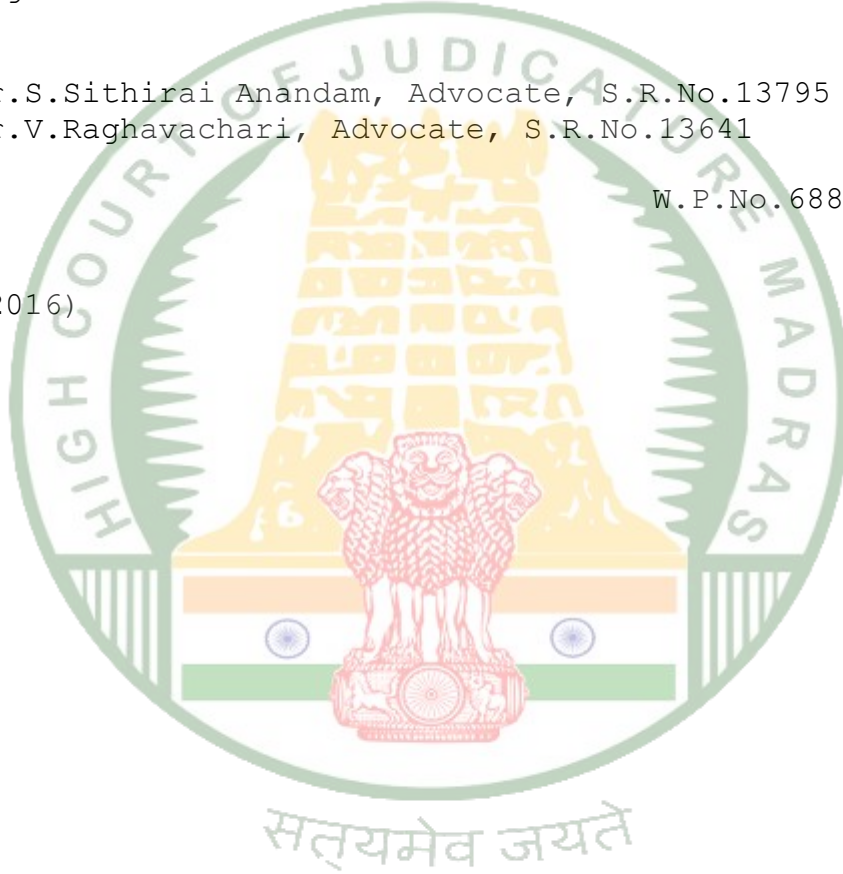
To

1. The Commissioner,
Hindu Religious Charitable Endowments Department,
Mahatma Gandhi Road,
Nungambakkam,
Chennai-600 034.
2. The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Sivagangai.

+1cc to Mr.S.Sithirai Anandam, Advocate, S.R.No.13795
+1cc to Mr.V.Raghavachari, Advocate, S.R.No.13641

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VGI (CO)
CA(01/04/2016)



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